

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BRENDA G. GARRETT and U.S. POSTAL SERVICE,
REMOTE ENCODING CENTER, Riverside, Calif.

*Docket No. 97-2400; Submitted on the Record;
Issued May 17, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant is entitled to compensation benefits from July 8 to October 8, 1996 as a result of her accepted employment injury.

The Board has duly reviewed the case record in the present appeal and finds that appellant failed to meet her burden of proof in establishing that she was entitled to compensation benefits from July 8 to October 8, 1996 as a result of her accepted injury.

On August 9, 1996 appellant, then a 40-year-old data conversion operator, filed a claim for occupational disease (Form CA-2) alleging that her left hand ganglion cyst was caused by factors of federal employment. Appellant included a July 8, 1996 clinic note indicating she was treated on that day and advised to arrange an orthopedic clinic appointment within 10 to 20 days for further treatment.

On September 5, 1996 the Office of Workers' Compensation Programs accepted appellant's claim for left ganglion cyst.

In an August 27, 1996 letter, received by the Office on September 5, 1996 the employing agency stated that appellant had resigned on July 11, 1996.

On October 9, 1996 appellant filed a claim for compensation alleging wage loss from July 8 to October 9, 1996.

In a medical report dated October 9, 1996, Dr. Martin Falappino, an osteopath, stated that he examined appellant and determined that she had a left hand ganglion cyst and released her to limited work on that day.

In a medical report dated October 14, 1996, Dr. Falappino stated that appellant had limited use of her left hand and wrist as a result of a ganglion cyst, noted that she was able to work limited duty and that she would be reevaluated on November 4, 1996.

On November 11, 1996 appellant submitted time reports covering her alleged hours of leave used as a result of her left hand condition from July 8 to October 1, 1996.

On December 3, 1996 the Office notified appellant that it had received her claim for compensation for July 8 to October 9, 1996, but that it would need medical verification from her treating physician to support her claim that her time lost was as a result of her accepted injury. Appellant was given 25 days from the date of the letter to respond.¹

In a letter decision dated January 3, 1997, the Office denied appellant's claim for compensation on the grounds that no evidence was submitted to demonstrate that appellant was disabled from July 8 to October 9, 1996.

On February 6, 1997 appellant requested reconsideration. In support of her claim, appellant submitted additional reports for leave time used from October 3 to November 4, 1996, and treatment reports dated July 8 and October 14, 1996.²

In a letter dated February 10, 1997, the Office inquired of the employing establishment whether a limited-duty position would have been available for appellant had she not resigned on July 11, 1996.

In a letter dated February 21, 1997, the employing establishment advised the Office that a limited-duty offer for appellant would have remained open as long as she was on limited duty.

In a decision dated March 27, 1997, the Office modified its January 3, 1997 decision, by finding that appellant was disabled from her position from October 9 to November 4, 1996, and that compensation would be paid upon receipt of a Form CA-8 for that time period. However, the Office also determined that appellant was not entitled to compensation from July 8 to October 8, 1996, on the grounds that the medical evidence on file did not support that appellant was disabled from her position during that time period.

An award of compensation may not be based on surmise, conjecture, speculation, or appellant's belief of causal relationship. The Board has held that the mere fact that a disease or condition manifests itself during a period of employment does not raise an inference of causal relationship between the condition and the employment. Neither the fact that the condition became apparent during a period of employment nor appellant's belief that employment caused or aggravated her condition is sufficient to establish causal relationship. While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such opinion be speculative or equivocal.³

¹ The Board notes that appellant's time reports covered only until October 1, 1996.

² The Board notes that appellant resubmitted some leave time reports but that the total time frame covered intermittent leave time used from July 8 to November 4, 1996.

³ *William S. Wright*, 45 ECAB 498 (1994).

Appellant failed to submit medical evidence that supported her claim that she was unable to work from July 8 to October 8, 1996. The initial medical record is dated October 9, 1996, which noted appellant's left hand ganglion cyst and ordered her to limited duty. That report is insufficient to demonstrate that appellant was disabled from work for any time prior to the date of the medical report.⁴

The March 23, 1997 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
May 17, 1999

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

⁴ The Board notes that the July 8, 1996 clinic note recommending that appellant make an appointment with the orthopedic clinic is not a medical opinion or report and thus has no probative value.